

SECOND REGULAR SESSION

# HOUSE BILL NO. 1388

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES AULL (Sponsor), SHIVELY,  
HODGES AND QUINN (Co-sponsors).

4516L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 168.104, 168.126, and 168.128, RSMo, and to enact in lieu thereof three new sections relating to teacher tenure.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 168.104, 168.126, and 168.128, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 168.104, 168.126, and 168.128, to read as follows:

168.104. The following words and phrases when used in sections 168.102 to 168.130, except in those instances where the context indicates otherwise, mean:

(1) "Board of education", the school board or board of directors of a school district, except a metropolitan school district, having general control of the affairs of the district;

(2) "Demotion", any reduction in salary or transfer to a position carrying a lower salary, except on request of a teacher, other than any change in salary applicable to all teachers or all teachers in a classification;

(3) "Indefinite contract", every contract heretofore or hereafter entered into between a school district and a permanent teacher;

(4) "Permanent teacher", any teacher who has been employed or who is hereafter employed as a teacher in the same school district for [five] **at least three** successive years and who has continued or who thereafter continues to be employed as a teacher by the school district **and who has been designated by the board of the school district as a permanent teacher** or any supervisor of teachers who was employed as a teacher in the same school district for at [least] **three** five successive years prior to becoming a supervisor of teachers and who continues

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 thereafter to be employed as a certificated employee by the school district **and who has been**  
17 **designated by the board of the school district as a permanent teacher**; except that, when a  
18 permanent teacher resigns or is permanently separated from employment by a school district, and  
19 is afterwards reemployed by the same school district, reemployment for the first school year does  
20 not constitute an indefinite contract [but if he is employed for the succeeding year, the  
21 employment constitutes an indefinite contract]; and except that any teacher employed under a  
22 part-time contract by a school district shall accrue credit toward permanent status on a prorated  
23 basis. **The granting of permanent status for a teacher under any circumstances shall be by**  
24 **a positive act of the board of the school district.** Any permanent teacher who is promoted with  
25 his consent to a supervisory position including principal or assistant principal, or is first  
26 employed by a district in a supervisory position including principal or assistant principal, shall  
27 not have permanent status in such position but shall retain tenure in the position previously held  
28 within the district, or, after serving two years as principal or assistant principal, shall have tenure  
29 as a permanent teacher of that system;

30 (5) "Probationary teacher", any teacher as herein defined who has been employed in the  
31 same school district for [five successive years or] less **than seven successive years without**  
32 **being granted permanent status.** In the case of any probationary teacher who has been  
33 employed in any other school system as a teacher for two or more years, the board of education  
34 shall waive one year **and may waive a second year** of his probationary period;

35 (6) "School district", every school district in this state, except metropolitan school  
36 district as defined in section 162.571;

37 (7) "Teacher", any employee of a school district, except a metropolitan school district,  
38 regularly required to be certified under laws relating to the certification of teachers, except  
39 superintendents and assistant superintendents but including certified teachers who teach at the  
40 prekindergarten level in a nonmetropolitan public school within a prekindergarten program in  
41 which no fees are charged to parents or guardians.

168.126. 1. A board of education at a regular or special meeting may contract with and  
2 employ by a majority vote legally qualified probationary teachers for the school district. The  
3 contract shall be made by order of the board; shall specify the number of months school is to be  
4 taught and the wages per month to be paid; shall be signed by the probationary teacher and the  
5 president of the board, or a facsimile signature of the president may be affixed at his discretion;  
6 and the contract shall be attested by the secretary of the board by signature or facsimile. The  
7 board shall not employ one of its members as a teacher; nor shall any person be employed as a  
8 teacher who is related within the fourth degree to any board member, either by consanguinity or  
9 affinity, where the vote of the board member is necessary to the selection of the person.

10           2. If in the opinion of the board of education any probationary teacher **with less than**  
11 **five successive years of service in the district** has been doing unsatisfactory work, the board  
12 of education, through its authorized administrative representative, shall provide the teacher with  
13 a written statement definitely setting forth his alleged incompetency and specifying the nature  
14 thereof, in order to furnish the teacher an opportunity to correct his fault and overcome his  
15 incompetency. If improvement satisfactory to the board of education has not been made within  
16 ninety days of the receipt of the notification, the board of education may terminate the  
17 employment of the probationary teacher immediately or at the end of the school year. Any  
18 motion to terminate the employment of a probationary teacher shall include only one person and  
19 must be approved by a majority of the members of the board of education. A tie vote thereon  
20 constitutes termination. On or before the fifteenth day of April in each school year, the board  
21 of education shall notify in writing a probationary teacher who will not be retained by the school  
22 district of the termination of his employment. Upon request, the notice shall contain a concise  
23 statement of the reason or reasons the employment of the probationary teacher is being  
24 terminated. If the reason for the termination is due to a decrease in pupil enrollment, school  
25 district reorganization, or the financial condition of the school district, then the district shall in  
26 all cases issue notice to the teacher expressly declaring such as the reason for such termination.  
27 Nothing contained in this section shall give rise to a cause of action not currently cognizant at  
28 law by a probationary teacher for any reason given in said writing so long as the board issues the  
29 letter in good faith without malice, but an action for actual damages may be maintained by any  
30 person for the deprivation of a right conferred by this act.

31           3. **Any probationary teacher after his or her fifth year of service with a school**  
32 **district who has not yet received a grant of permanent status shall be given notice by April**  
33 **fifteenth of the particulars of the deficiencies in his or her performance and shall enter**  
34 **upon a performance improvement plan to be designed by the district with the assistance**  
35 **of the probationary teacher. The probationary teacher under this subsection shall**  
36 **continue under the improvement plan until his or her teaching performance improves and**  
37 **the granting of permanent status or to the end of his or her seventh year of service with**  
38 **granting of permanent status. A probationary employee under this subsection shall receive**  
39 **notice of his or her status by April fifteenth in his or her sixth and seventh years of service.**

40           4. Any probationary teacher **with less than three successive years of service with the**  
41 **same school district** who is not notified of the termination of his employment shall be deemed  
42 to have been appointed for the next school year, under the terms of the contract for the preceding  
43 year. A probationary teacher who is informed of reemployment by written notice shall be  
44 tendered a contract on or before the fifteenth day of May, and shall within fifteen days thereafter  
45 present to the employing board of education a written acceptance or rejection of the employment

46 tendered, and failure of such teachers to present the acceptance within such time constitutes a  
47 rejection of the board's offer. A contract between a probationary teacher and a board of  
48 education may be terminated or modified at any time by the mutual consent of the parties thereto.

168.128. The board of education of each school district shall maintain records showing  
2 periods of service, dates of appointment, and other necessary information for the enforcement  
3 of sections 168.102 to 168.130. In addition, the board of education of each school district shall  
4 cause a comprehensive, performance-based evaluation for each teacher employed by the district.  
5 Such evaluations shall be ongoing and of sufficient specificity and frequency to provide for  
6 demonstrated standards of competency and academic ability. All evaluations shall be maintained  
7 in the teacher's personnel file at the office of the board of education. A copy of each evaluation  
8 shall be provided to the teacher and appropriate administrator. The state department of  
9 elementary and secondary education shall provide suggested procedures for such an evaluation.  
10 **Each district shall align its standards for teaching evaluation with the standards for**  
11 **teaching adopted by the state board of education.**

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